

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JULIO VALLEJO,

Plaintiff,

-against-

WMC MORTGAGE CORP., FIRST
CONTINENTAL MORTGAGE AND
INVESTMENT CORP., and GRP LOAN, LLC,

Defendants.

ORDER

09-CV-1748 (NGG) (JMA)

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NICHOLAS G. GARAUFIS, United States District Judge.

On April 29, 2009, Plaintiff Julio Vallejo ("Plaintiff") filed this action against Defendants WMC Mortgage Corp., First Continental Mortgage and Investment Corp., and GRP Loan, LLC (collectively "Defendants"). (Complaint (Docket Entry # 1).) Since then, Plaintiff has failed to file any proof that he has served Defendants. In a Memorandum and Order filed May 15, 2009, the court gave notice to Plaintiff that it would be obligated to dismiss the action under Federal Rule of Civil Procedure 4(m) if Plaintiff did not serve Defendants within 120 days of the date he filed the Complaint. (Docket Entry # 5.) On September 23, 2009, Magistrate Judge Joan M. Azrack ordered Plaintiff to show cause by October 2, 2009 why the Complaint should not be dismissed under Rule 4(m) for failure to serve Defendants. There is no indication on the docket that Plaintiff has ever responded.

Rule 4(m) states: "If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time." It has now been 561 days since Plaintiff filed his Complaint in this action, and Plaintiff has failed to file proof that he has served any Defendant. In accordance with Federal Rule of Civil

Procedure 4(m), Plaintiff's action is DISMISSED without prejudice. The Clerk of Court shall close this case.

SO ORDERED.

Dated: Brooklyn, New York
November 10, 2010

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS 0
United States District Judge